

Docket No. 33649-6

**CERTIFICATE OF MAILING**

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment; Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450 on April 17, 2006.

Bonnie S. Dell



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**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: Patricia Ann Piers et al : Paper No.:  
Serial No.: 10/724,852 : Group Art Unit: 2873  
Filing Date: December 1, 2003 : Examiner: D. Izquierdo

For: **Multifocal Ophthalmic Lens**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Transmitted herewith is a Response in the above identified application.

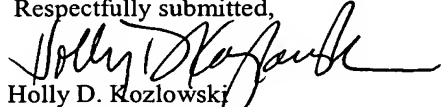
- ☒ No additional fee is required.  
☒ Also attached: Return Postcard

The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUS PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	105	105	0	x \$50=	\$00.00
Independent Claims	4	4	0	x \$200 =	\$00.00
<b>TOTAL FEE DUE</b>					<b>\$00.00</b>

- ☐ A check in the amount of \$0 is enclosed.
- ☐ Please charge \$00.00 to our Visa credit card. Form PTO-2098 is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 04-1133, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

  
Holly D. Kozlowski  
Registration No. 30,468

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**RESPONSE**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In the Official Action dated March 20, 2006, the Examiner required restriction under 35 U.S.C. §121 between invention I, claims 1-101, drawn to methods, and invention II, claims 102, 103, 175 and 176, drawn to multifocal ophthalmic lens. The Examiner asserted that the inventions are distinct because the multifocal ophthalmic lens can be used within a telescope.

This restriction requirement is traversed and reconsideration is respectfully requested. First, Applicants submit that the two groups of claims enumerated by the Examiner are not related as product and process of use. To the contrary, claims 1-101 are drawn to methods of designing a multifocal ophthalmic lens while claims 102, 103, 175 and 176 are directed to multifocal ophthalmic lenses. Thus, the two groups of claims are related as a product and a process of making the product. Without commenting on the accuracy of the Examiner's assertion that the multifocal ophthalmic lens can be used within a telescope, the Examiner's

statement provides no basis for requiring restriction under 35 U.S.C. §121 between the two groups of enumerated claims. Accordingly, reconsideration and withdrawal of the restriction requirement under 35 U.S.C. §121 is requested.

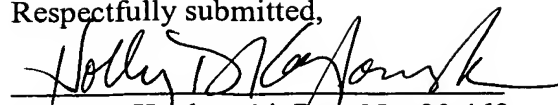
In order to provide a complete response to the restriction requirement, Applicants hereby elect claims 102, 103, 175 and 176, with traverse for the reasons set forth above.

The Examiner further indicated that upon selection of the invention I, claims 1-101, a further election of species A-H was required, and upon selection of invention I, claims 1-101, an election of species A-L was required. Since Applicants have not elected invention I, method claims 1-101, it does not appear that an election of species is required.

Moreover, Applicants submit that the election of species requirements are improper and should be withdrawn. That is, under 37 C.F.R. 1.146, an election of species requirement may be made wherein an application contains a generic claim to a generic invention and claims to more than one patentably distinct species. However, the Examiner has not shown that the enumerated species A-H in the first election of species requirement or the enumerated species A-L in the second election of species requirement are mutually exclusive of one another, thereby warranting the election of species requirements. To the contrary, Applicants submit that there is substantial overlap between at least some of the species enumerated by the Examiner, to the extent that the Examiner's identification of the respective species is understood. In this regard, Applicants note that the enumerated species are described by reference to numbered paragraphs, presumably from Applicants' published application. In the event that the Examiner maintains these election of species requirements, substantive identification of the species to which the Examiner is referring is requested.

It is believed that the above represents a complete response to the restriction and election requirements set forth in the Official Action. Examination of all claims on the merits is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly D. Kozlowski", written over a horizontal line.

Holly D. Kozlowski, Reg. No. 30,468

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